

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DE-VAUNTE J. TAYLOR,

Plaintiff,

vs.

JAMES E. HOLTMEYER,

Defendant.

4:14-CV-3127

ORDER

This matter is before the Court after a pretrial hearing, at which the plaintiff reasserted his previously-denied motion to appoint counsel. The defendant does not object to the appointment of counsel to represent the plaintiff, but moved to reopen the time for filing dispositive motions.

Pursuant to [28 U.S.C. § 1915\(e\)\(1\)](#), the Court "may request an attorney to represent any person unable to afford counsel." The Court must consider the factual and legal complexity of the underlying issues, the existence of conflicting testimony, and the ability of the indigent plaintiff to investigate the facts and present his claims. *Ward v. Smith*, 721 F.3d 940, 942 (8th Cir. 2013); *Phillips v. Jasper Cnty. Jail*, 437 F.3d 791, 794 (8th Cir. 2006). The plaintiff has already been granted leave to proceed in forma pauperis (filing [7](#)) and the Court finds that the criteria for appointment of counsel are satisfied in this case.

The Court further finds that in light of the appointment of counsel, it is appropriate to permit both parties an opportunity to file dispositive motions (and conduct any additional discovery that might be necessary to that end). It is the Court's intent to progress this case toward a jury trial, but the Court will not set a trial date until after dispositive motions (if any) are filed and disposed of.

IT IS ORDERED:


1. The plaintiff's motion for appointment of counsel is granted.
2. Pursuant to [NEGenR 1.7\(g\)](#), [28 U.S.C. § 1915\(e\)\(1\)](#), and the inherent authority of the Court, the following counsel is appointed to represent the claimant:

Robert W. Futhey  
Fraser Stryker PC LLO  
500 Energy Plaza  
409 South 17th Street  
Omaha, NE 68102  
(800) 544-6041

3. The Clerk of the Court shall provide a copy of this order to the above-named counsel.
4. Counsel shall promptly enter an appearance accepting the Court's appointment.
5. Expenses and attorney fees shall be paid from the Federal Practice Fund under the restrictions set out in [NEGenR 1.7\(g\)](#) and this district's [Amended Federal Practice Fund Plan and the Federal Practice Committee Plan \(as adopted March 11, 2014\)](#). Counsel is particularly directed to Section II(A)(1)(a), Section VI(A)(1), and Attachment A of the [Amended Federal Practice Fund Plan](#), which explain what fees and expenses are authorized and how to seek reimbursement.
6. The defendant's motion to reopen the time for filing dispositive motions is granted.
7. All dispositive motions shall be filed on or before October 19, 2015.
8. On or before September 1, 2015, counsel for the parties shall contact the Magistrate Judge's chambers to set a status conference to discuss case progression, including any additional discovery that may be appropriate.

Dated this 19th day of August, 2015.

BY THE COURT:

  
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John M. Gerrard  
United States District Judge